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\$3714/

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR PATENTS, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, , ON THE DATE INDICATED BELOW.

BY

*Kimberly Hughes*

DATE

*April 21, 2004*



**PATENT**

Mail Stop PETITION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re:	Patent Application of Jeff Karn <i>et al.</i>	: Group Art Unit: 3714 : : :
Conf. No.:	2560	: Examiner: Alex P. Rada : :
App. No.:	10/663,029	: : :
Filed:	September 15, 2003	: Attorney Docket : No: 5887-311US :
Title:	ELECTRONIC CARD GAME AND METHOD	:

**PETITION TO MAKE SPECIAL PURSUANT  
TO 37 C.F.R. § 1.102(d)**

Applicants hereby petition the Commissioner to make this Application special because of an actual infringement of the presently pending claims. This Petition is made pursuant to 37 C.F.R. § 1.102(d) and Manual of Patent Examining Procedure (MPEP) § 708.02(II).

04/26/2004 ZJUHR1 00000002 10663029

01 FC:1460

130.00 OP

### **Memorandum in Support of Petition**

The applicable rule, 37 C.F.R. § 1.102(d), provides that an application will be made special, and thereby advanced out of turn for examination, based on an actual infringement of the presently pending claims.

MPEP § 708.02(II) provides that an application may be made special if it can be shown:

- (A) That there is an infringing device or product actually on the market or method in use;
- (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

In the matter of the present application:

(A) The enclosed "Statement of Jeff Karn in Support of Petition to Make Special because of an Actual Infringement (MPEP § 708.02)" sets forth that there is an infringing product actually on the market and that the device is running a software application that implements a method which is also infringing the claims of the present application as currently pending. TAB-AUSTRIA Industrie- und Unterhaltungselektronik GmbH & CoKG, A-4052 Ansfelden, Haiderstraße 40, AUSTRIA, is importing touchscreen amusement devices into the United States which include an electronic card game and method as shown in the four figures labeled Figs. 1-4 attached to the Statement of Jeff Karn. Figs. 1-2 are photographs of an actual machine running the game software, and Figs. 3-4 are screenshots of TAB-AUSTRIA's website for tournament games which describe the game in an overview format (<http://www.championsnet.net/cnet/default.asp>).

(B) I, as Applicants' undersigned representative agent, have made a rigid comparison of the alleged infringing card game and method for playing the card game produced

and imported into the United States by TAB-AUSTRIA with the claims of the present application, as presently pending, and more than one of the claims are unquestionably infringed.

(C) Lastly, the enclosed Statement of Jeff Karn sets forth that at least one of the named inventors has a good knowledge of the pertinent art, and that to his knowledge, there are no more relevant references available than already described in the Background of the Invention section of the present application.

The Petition fee under 37 C.F.R. 1.17(h) is being paid by a check in the amount of \$130.00 for the publication fee is enclosed herewith.

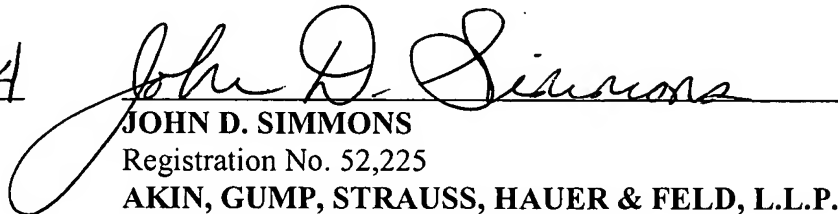
The Commissioner is hereby authorized to charge Deposit Account No. 50-1017 (Billing No. 205887.0311) for any deficiencies or overpayments in the above-calculated fee. A duplicate copy is enclosed.

Thus, the present application plainly meets the standard for making an application special and such action is respectfully requested.

Respectfully submitted,

**JEFF KARN *et al.***

April 21, 2004  
(Date)

  
**JOHN D. SIMMONS**

Registration No. 52,225

**AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.**

One Commerce Square

2005 Market Street, Suite 2200

Philadelphia, PA 19103-7086

Telephone: (215) 965-1200

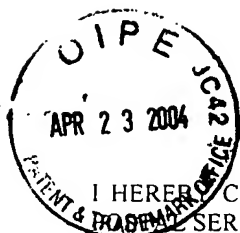
**Direct Dial: (215) 965-1268**

Facsimile: (215) 965-1210

Email Address: jsimmons@akingump.com

Attorney for Applicants

JDS/CAJ:ccr/jds  
Enclosures



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BY:

*Kimberly Hughes*

DATE:

*April 21, 2004*

PATENT

In re:	Patent Application of Jeff Karn <i>et al.</i>	: Group Art Unit: 3714
		:
Conf. No.:	2560	: Examiner: Alex P. Rada
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App. No.:	10/663,029	:
		:
Filed:	September 15, 2003	: Attorney Docket
		: No: 5887-311US
		:
Title:	ELECTRONIC CARD GAME AND METHOD	:

**STATEMENT OF JEFF KARN IN SUPPORT OF PETITION TO MAKE SPECIAL  
BECAUSE OF ACTUAL INFRINGEMENT (MPEP § 708.02)**

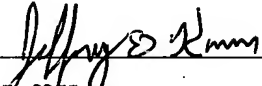
I hereby declare as follows:

1. I am the same Jeff Karn who is the first named inventor of the invention described and claimed in U.S. Patent Application No. 10/663,029 ("the present application").
2. The subject matter of each of currently pending claims 1-29 in the present patent application referenced above, was invented by myself and Chris Walsh.
3. I am currently the Director of Software for Merit Industries, Inc. ("Merit"), the assignee of the present application, and I have worked in various positions for Merit since 1996. Merit is a developer and manufacturer in the amusement (game) device, video game and virtual jukebox arts.

4. I have at least a good knowledge of the pertinent art, and to my knowledge, there are no more relevant references available than the references already described in the Background of the Invention section of the present application.

5. I submit that there is an infringing product actually on the market and the device is running a software application that implements a method which is also infringing the claims of the present application as currently pending. TAB-AUSTRIA Industrie- und Unterhaltungselektronik GmbH & CoKG, A-4052 Ansfelden, Haiderstraße 40, AUSTRIA, is importing touchscreen amusement devices into the United States which include an electronic card game and method as shown in the attached four figures labeled Figs. 1-4. Figs. 1-2 are photographs of an actual machine running the game software, and Figs. 3-4 are screenshots of TAB-AUSTRIA's website for tournament games which describe the game in an overview format (<<http://www.championsnet.net/cnet/default.asp>>).

Date: 4/13/04

  
Jeff Karm

1/29/04

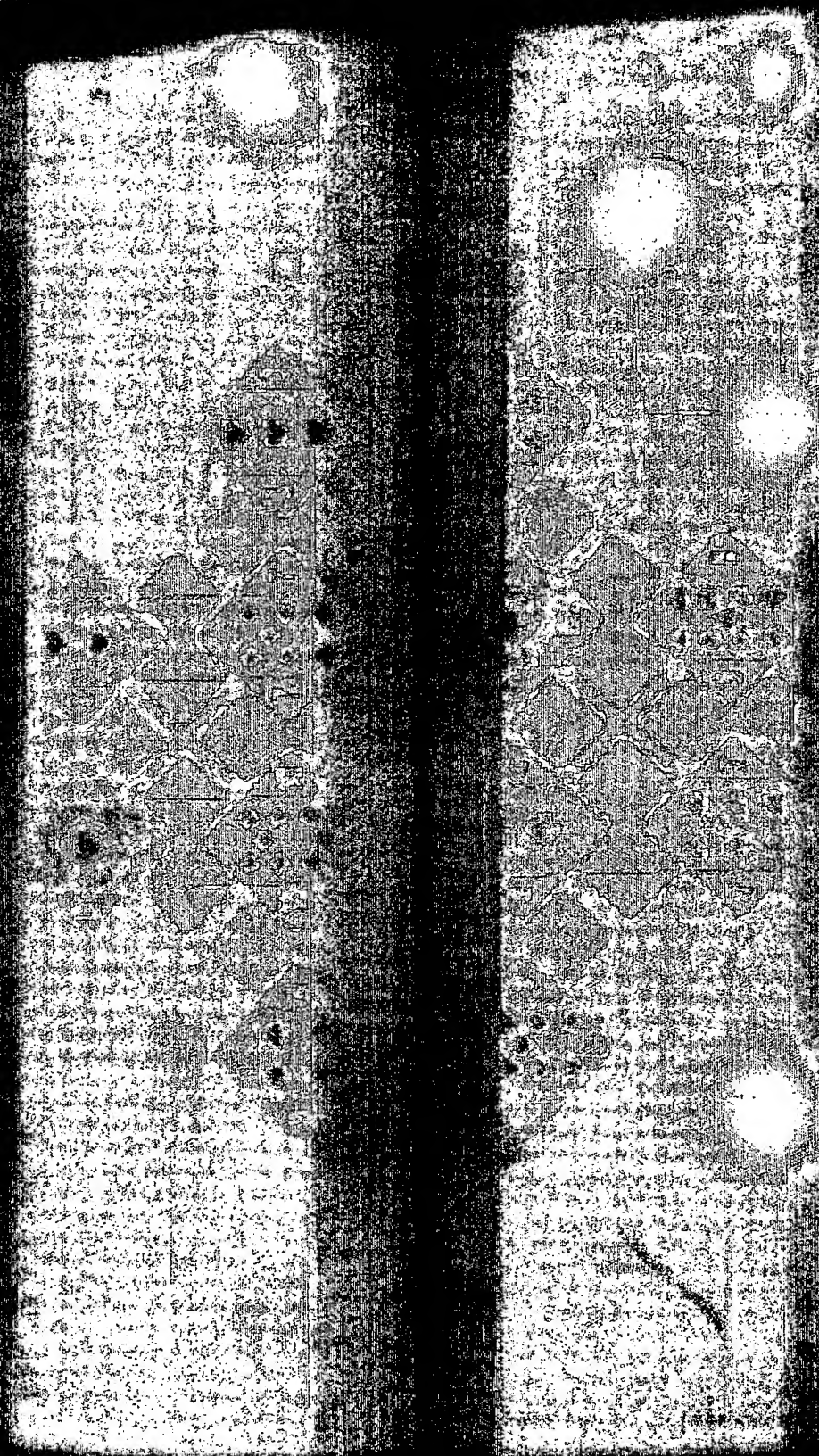
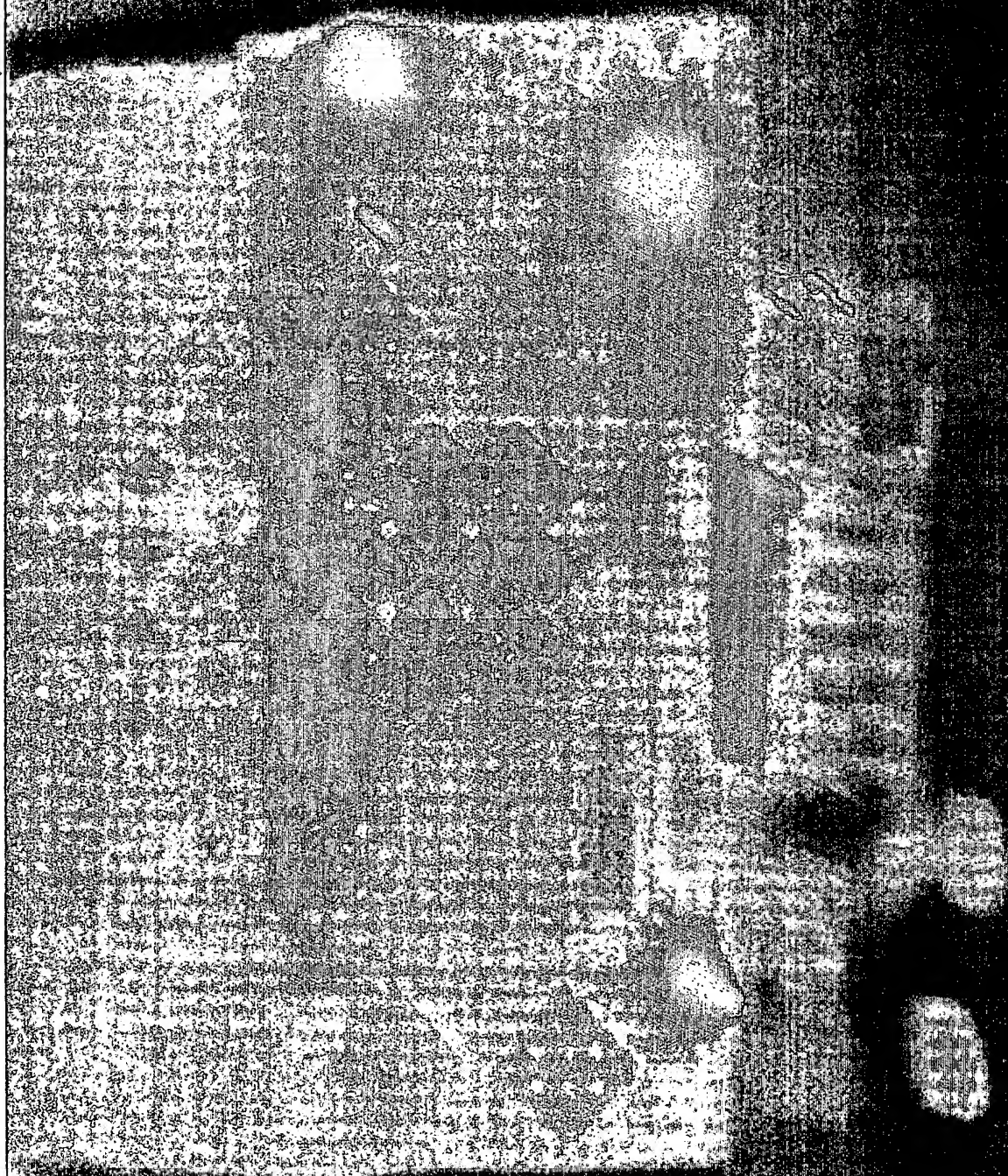


Fig. 1



1/29/04

Fig. 2







**www.championsnet.net**



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1

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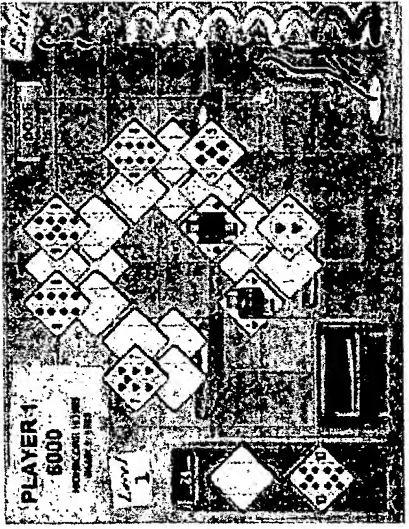
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# Bio Hazard



In the shortest time possible, try to move all of the cards in the playing area to the pile. Only the numerical sequence must be complied with, colour is not important. If no card matches, you must take a new one from the deck. Ace-2-3-4-5-6-7-8-9-10-J-Q-K-Ace-2-Ace-...

**vv Back**

M  
50  
L

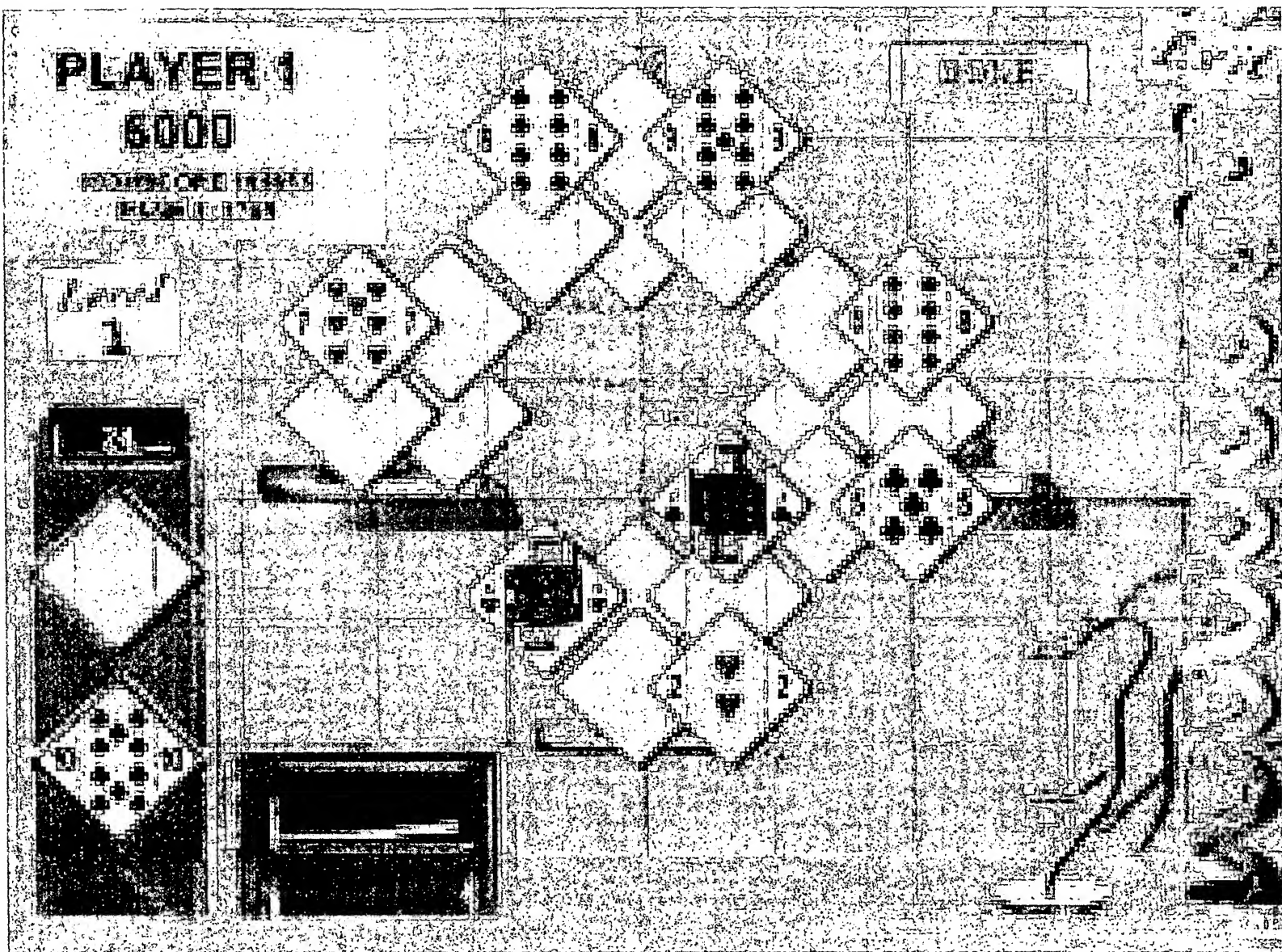


Fig. 4